2684

App. F. IX-4

19 53-54
(C.B.)

File No. 454-5

Serial Nos. 1

Previous References.

Later References.

✓

GENERAL AND REVENUE SECRETARIAT

Serial Nos. One

Part B for May 54.

SUBJECT

"Admissibility" of Salary and allowances including Travelling Allowance of Ministers absent on holiday

C. 340/50-51.

Extract from the Proceedings of the 75th *Meeting of the Council of Ministers held at* ~~*Bangalore*~~ Mysore *on* 13/10/ *19*50

SUBJECT:

Daily allowance admissible to Ministers

OPINION OF THE COUNCIL

(1) The daily allowance for the Ministers may be Rupees fifteen per day instead of Rs.10/- with effect from 1st October, 1950.

Sd. K. Chengalaraya Reddy,
CHIEF MINISTER.

2) For favour of further action.

Fl. Secy., w/c)

13/10.

14/10/50.

NANCIAL SECRETARY
19 OCT 1950

20/x/50

"EXTRACT"

K Srinivasan
Chief Secretary to Government.

Daily allowance admissible to Ministers.

General and Revenue Secretariat | File No. 268/R of 19

[App. F. III-2

WD 06071—GPB—25,000—20-6-49

C·340/50-ST.

CHIEF SECRETARY
906
2 DEC 1950
GOVT OF MYSORE

(C.D.)

Addl Secy.
"Fin."

Serial No.

Ch. Secy we) 18) 23/12/50.

26/12

19) 26/12

27/12/50

NOTE—Contn. Sheet

V. T. SREENIVASAN, B.A., B.Sc.,
Accountant-General.

OFFICE OF THE ACCOUNTANT-GENERAL,
MYSORE,

D. O. No. 897/GAD CONFIDENTIAL.

~~Bangalore, dated~~ 29th December *1950.*

GENERAL & REVENUE SECRETARIAT
3401/PL
3 JAN 1951

~~Dear~~ Sri Shamanna,

FINANCIAL SECRETARY
30 DEC 1950
GOVT. OF MYSORE

Sub: Admissibility of Salary and allowances including T.A. of a Minister absent on a holiday taking rest or undergoing medical treatment etc.

1) For perusal.
A will be done.
Min. Fin)
31-12-50

I enclose herewith extracts of paras 1 to 7 of letter No.875-A/184-50 dated 26-12-1950 received from the Comptroller and Auditor General of India in regard to the admissibility of Salary and allowances, including T.A. to Ministers who may be on a holiday, taking rest or undergoing medical treatment

OFFICE OF THE MINISTER
FOR FINANCE & INDUSTRIES.
No. 5892
Date 3-1-51.

I request that these extracts containing the Audit rulings of the Comptroller and Auditor General of India may kindly be caused to be circulated to the Ministers of the Mysore Government for their information.

A.

2) F.C.D

3) 5/1/51
F.D. Early.
5/1/51.

Pl. make copies
5/1/51

FINANCIAL SECRETARY
5 JAN 1951
GOVT.

Yours sincerely,

V. T. Sreenivasan

To

Sri M.Shamanna, M.A.,
Financial Secretary to Government,
BANGALORE.

apg.

29/12/50

4) Fair copies of the extract, are put up & these may kindly be marked to the respective Ministers

8/1

8/1

5) Copies of this letter also require to be typed. They will be sent up to the Hon'ble Ministers with the encl.
8/1/51

3401/Fl

3401/FL.

Attended to
9/1

6) Typed copies are put up may kindly be marked to the Hon'ble Ministers.

9/1/51

9/1/51

7) Typed copies have been sent to all the ministers on 10-1-1951.

10/1/51.

Recd. by me on 30/1/51
MGS. pl discuss
5/2

GENERAL REVENUE SECRETARIAT
6542/C.B.
24 FEB 1951
CONFIDENTIAL BRANCH.

8) Discussed. Action has to be taken in the C.B. in consultation with the Legislative & Fin. Branches for passing of Ministers' Salaries Act and the rules in respect of salary & allowances including T.A. may be based on the instructions of the Comptroller & Auditor-General.

MGS
21/2.

9) The question of fixing special rates of T.A. including places like Hill Stations in the case of Ministers has to be considered along with the fixation of pay and other allowances, the entire concessions being covered by a legislative enactment.

Asst. Secy. Fin.)
22/2

10) For kindly noting the stage of the question. Asst. Sec. (C.B.)
20/2/51

Sri RLN)

3401/Fl.

Admissib. of Salary and allowances including to Members of L. A. T.A. of Ministers.

Linked with File. C.340/50-51.

28) The file No. C. 340/50-51. (D. No. 2684/Fl). relating to Daily allowance admissible to Hon'ble Ministers which was considered in Council on 13. 10. 1950 and resolution passed and subsequently reconsidered in Council on 21. 12. 1950 and instructions issued to the effect that the proposal may be deferred, is linked to this file.

29) There is no other file pending consideration in Council or in the Fin. section of the Chief Secretariat.

30) There appears to have been a draft Bill prepared in the Legislation Branch, for consideration in Council and L. A. This file has not been received in the Chief Secretariat so far. The administration Branch (Budget Section), will, therefore, please consult the Legislation Branch to note the stage at which the question now stands.

31) Subtd with reference to Para (27)

M 27.3.51.

27.3.51.

Addl. Asst Secy Fin)

32) RMR 27/3/51

33) Question relating to Salary and allowances of Hon Ministers have to be dealt with in the Chief Secty. The question is whether salaries and allowances including T.A. of the Hon Ministers may not be covered by a specific legislation.

Yes please 29/3

Asst Secy Fin) M 28/3

Sri K.I.N)

34) I agree. Asst Secy G.S.) 29/3/51

GENERAL & REVENUE SECRETARIAT
30 MAR 1951
CONFIDENTIAL BRANCH.

Admissibility of salary and allowances including T.A to members of L.A. and the ministers

3401/FL. 3448/LD. 6542/C.S.

35) Submitted.

This may be ~~[illegible]~~ sent to the Legislation Br for kindly noting the stage at which the question of the Bill relating to salary and allowances to Ministers now stands

2/4/51

Asst. Secy Legis

2.4.51

VCMR 2/4/51

3/4

Sri T.V.
Mas 3/4/51

LEGISLATIVE DEPARTMENT
3 APR 1951
GENERAL & REVENUE BRANCH

36.

A Bill was ordered to be drafted for providing for the salaries and allowances of the Hon'ble Ministers, the Hon'ble Speaker, the Deputy Speaker and Members of the Legislative Assembly. It was accordingly prepared. Subsequently, the Bill was ordered to be re-drafted confining its scope only to the salaries and allowances to be paid

General and Revenue Secretariat

Admissibility of Salary and Allowances to the Ministers

File No. 3448 of 19 LD

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to the members only ~~and~~ that the provisions in respect of the Ministers, Speaker and Deputy Speaker may be deleted. The Bill was accordingly re-drafted narrowing down its scope to the payment of Salaries and allowances to members of the Legislative Assembly. The revised Bill, after its passage in the Legislative Assembly, has now been enacted as the Mysore Payment of Salaries and and Allowances to Members of the Legislative Assembly Act, 1951, (Act II of 1951).

6.4.51

Mas 6.4.51

37) 10/4

Asst. Secy (C.B.)

GENERAL & REVENUE SECRETARIAT
10 APR 1951
CONFIDENTIAL BRANCH.

38) May be sent to F.D. for note and return.

10.4.51

Addl. Asst. Secy Fin

39) 11.4.51

NOTE—Contn. Sheet.

Admissibility of Salary and allowances

File No. 3401/Fl. 6542/CS of 19 including T.A. to the Hon'ble Ministers

General and Revenue Secretariat

6542/Ch-S.

Serial No.

Linked council file no. C.340/50-51

40) Action will be taken to delete all special provisions relating to the Dewan in the M.S.R. under revision. If any special provisions have to be made relating to T.A. of the Hon chief Min, they will have to be covered by a special legislation. Since the question of enacting a legislation to cover Salaries and allowances of Hon Ministers has been deferred, no further action appears called for

Fl Secy)
Chief Secy)

13/4
16

41) 17.4.51.

Sri KLN)

42) 24/4/51

43) Submitted
No further action, at present, seems to be called for and if approved, this file will be recorded

25/4/51

1/5/51.

44) Yes
SMR
1.5.51

1.5.51.

18 APR 1951

B

Under Article 480 and Appendix N of the M.S.R. Officers proceeding to Hill Stations are entitled to special rates of T.A. & D.A. The then Dewan holding the Office and his Establishment used to avail of these provisions whenever ~~they~~ they proceeded to Ootacamund. These provisions cannot be made applicable to the Chief Minister and his Establishment in the absence of specific G.O. or amendment to M.S.R. The Secretary to Government, Finance Department is therefore requested kindly to take necessary action in the matter.

Financial Secy. w/cs.

30/12/50

A/S. Fin

No action is necessary. The Auditor general has ruled in his recent letter that such journeys are admissible. Please make an extract of the same and send it to the Ch. Secy for infn. Necessary pro-

FINANCIAL SECRETARY
15 JAN 1951
GOVT. OF MYSORE

vision may be included in the M.S.R. now under revision. Early.

30/12/50.

File (3101/x) is put up as desired by the M.S. Sir.

Mas
30/12

Pl speak. This is not the file.

30/12/50.

The other file referred to (DM 3401/x) is placed below.

Mas
11/1/51

Action will be taken accy.

For favour of perusal.

Ch. Secy.

11/1/51

13/1/51

CHIEF SECRETARY
2690
13 JAN 1951
GOVT. OF MYSORE

CHIEF SECRETARY
13 JAN 1951
GOVT. OF MYSORE

Read on 30/1/51

MCK

Confidential

Extract of Paras 1 to 7 from letter No.875-A. dated 26th December 1950 from the Comptroller & Auditor-General of India, Simla to the Accountant-General, Mysore, Bangalore.

Sub:- Admissibility of salary and allowances including Travelling Allowance, of a Minister absent on a holiday taking rest or undergoing medical treatment, etc.

The following questions have come up before the Comptroller & Auditor General for his decision :-

(i) Whether a Minister is entitled to pay and allowances during the period he is absent on a holiday, taking rest or undergoing medical treatment, etc.

(ii) Whether a Minister is entitled to Travelling Allowance for journeys from his headquarters to and from the place where he is spending his holiday, taking rest or undergoing treatment, and daily allowance for the days of halt outside his headquarters during such journeys, and

(iii) Whether the members of the staff who may accompany a Minister in such cases would be entitled to Travelling Allowance.

2. So far as the admissibility of pay and allowances of the absentee Minister during the period of his absence is concerned, the Govt.of India have interpreted the constitutional position as follows:-

So far as States are concerned, under Art.163(1) of the Constitution (applied to Part 'B' by Art.238) there shall be a Council of Ministers with the Chief Minister at the head to "aid and advise" the Governor/Rajapramukh in the exercise of his functions. It would be contrary to the principles of the collective responsibility of the Council of Ministers to "aid and advise" the Governor/Rajpramukh, if one of the Ministers were formally to be allowed leave and absolved from that responsibility. It is for this reason that the Constitution does not provide for leave for Ministers. It is of course open to Ministers to take a short recess; but continued absence of a Minister from his duties for a long period is not desirable and if such absence is for any reason found necessary the Minister concerned should be well advised to tender his resignation.

The Comptroller & Auditor General agrees with and accepts this interpretation and considers that in accordance with it, a Minister continues to be in office until he demits it and would, therefore, be entitled to pay and allowances admissible under the relevant Ministers' Salaries Act or other legislation in respect of his office, whether the Minister is within or outside the territorial limits of the State. This covers even a period of absence on a holiday spent on rest or recuperation. The question whether in the case of prolonged absence of a Minister from his duties, he should tender his resignation, is however one which the Head of the State, the Chief Minister or the Legislature will doubtless consider and is not ordinarily for the audit authorities to raise.

3. As regards the question of admissibility of Travelling Allowance to a Minister, the position in respect of States is as follows:-

The T.As *inter alia* of Ministers including a Chief Minister are to be determined by a Law of the Legislature, vide sub-clause (5) of Art.164 (read with Art.238 in the case of Part 'B' States) of the Constitution, and until any such Law is passed, they are to be regulated by any provisions in force immediately before the commencement of the Constitution. It is therefore necessary to examine carefully the provisions of the relevant law and rules having the force of law in order to regulate the T.As On the assumption that the Minister's T.A. are based on the fundamental principle applicable to all public servants, *viz.*, that T.A. would be admissible for journeys performed in the public interest, the criteria for admitting or rejecting a claim would be whether a particular journey was performed in the public interest or whether it was performed wholly in the personal interest or a private business of the Minister. The Comptroller and Auditor-General considers that it would not be sufficient if a Minister was performing any part of his normal duties at a place away from his headquarters to which he may have proceeded purely for personal reasons. It is necessary that the journey must have been actually necessitated by his duties which he could not perform at headquarters. This principle was recognised even under the Govt.of India Act, 1935, in respect of the Members of the Governor-General's Executive Council. In any case, in the absence of any specific provision to the contrary in the prevailing rules applicable to Ministers permitting the drawal of T.A. for journeys performed purely in personal interest or for private purposes, such as journey for rest or recoupment of health, in the opinion of the Comptroller & Auditor-General, T.A. for such a journey would not be admissible.

4. As regards the third question in paragraph 1 of this letter, the members of the staff who accompany a Minister under his orders are only carrying out their duties and their journey must therefore, be regarded as duty for which they would be entitled to T.A. under the rules.

5. These principles apply also to similar cases of Ministers of the Union Government, whose salary and allowances are governed by Art.75(6) of the Constitution.

6. The Comptroller & Auditor-General desires that the principles enunciated above should be followed by you in dealing with such cases.

7. I am to request you to communicate paragraphs 1 to 6 of this letter to the State Government for information, so that the Ministers' T.A. claims in future may be regulated in accordance with the principles enunciated therein.

"Extract"

AVR 30 12/50

V. Natarajan
Asst Comptroller
GAD